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Date: *7/21/08**Clifford D. Hyra*
Clifford D. Hyra

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Roger W. Carson

Serial No. 10/522,768

Art Unit: 1793

Filed: March 4, 2005

Examiner: Edward M. Johnson

For: MEDIATED ELECTROCHEMICAL OXIDATION USED FOR THE DESTRUCTION
OF ORGANICS CONTAMINATED WITH RADIOACTIVE WASTE MATERIALS,
DISSOLUTION OF TRANSURANICS, AND THE DECONTAMINATION OF
EQUIPMENT CONTAMINATED WITH MIXED WASTE

RESPONSE

To the Director of the Patent and Trademark Office

Sir:

In response to the office action dated June 27, 2008, the Applicant provisionally elects
Claims 1, 8, 10 - 11, 15, 20 - 25, 31 - 34, 36, 44 - 45, 47 - 48, 52, and 87 of Group I and traverses
the requirement for restriction.

The inventions as described in the claims are neither independent nor distinct. In fact, the
inventions as claimed arise from the same inventive effort. Where inventions are neither
independent nor distinct, restrictions should not be required. Where inventions arise from the
same inventive effort, restriction should not be required.

MPEP 802.01 points out that a sub-combination and a combination are not independent

inventions, and that a process and an apparatus used in the practice of the process are not independent inventions. That same section points out that independent means that there is no disclosed relationship between the subjects disclosed.

The Examiner has not made any requirement based on the subject matter being independent. Therefore it is understood that the Examiner concedes that the subject matter is not independent.

The Examiner's requirement for restriction is based upon his holding that the subjects are distinct. That is, as pointed out in Section 802.01, the Examiner has held that the subject matter as claimed:

are capable of separate manufacture, use or sale as claimed, AND ARE PATENTABLE
(novel and unobvious) OVER EACH OTHER.

The Examiner has held under Section 803 that the claimed inventions:

are able to support separate patents and they are ... distinct (MPEP Section 806.05-806.05(i)).

The Examiner argues that "The inventions listed as Groups I and II do not relate to a single general inventive concept... because, ... they lack the same or corresponding special technical features for the following reasons: claim 1 or 27 is anticipated or obvious over Steele US 5,952,542; Balazs US 5,911,868; Steward US 5,756,874; Conlin et al. US 5,855,763; and/or Surma et al. US 5,968,337. Consequently, the special technical feature which links Groups I-II does not provide a contribution over the prior art, so unity of invention is lacking." However, these references have previously been overcome in related applications including U.S. Patent Nos. 6,402,932 and 7,387,719. Also, the Groups are related as a process and apparatus used in

the practice of the process. Restriction is therefore improper.

In addition, Section 803 unequivocally states:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

So that Section 803 makes its point clearly, the serious burden requirement is repeated under the title:

CRITERIA FOR RESTRICTION BETWEEN
PATENTABLY DISTINCT INVENTIONS

Section 803 goes on to state that there are two criteria for a restriction requirement: one, that the inventions must be distinct as claimed; and two, that there must be a serious burden on the Examiner if restriction were not required.

Section 803 goes on to state under GUIDELINES that an Examiner must provide reasons and/or examples to support conclusions. The Examiner has not given reasons to support the conclusion that there would be a serious burden on the Examiner if restriction were not required.

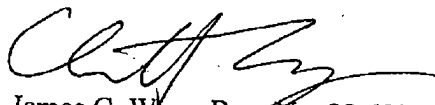
The Examiner has not even argued that there would be a serious burden on the Examiner if restriction were not required. Indeed, there should be no serious burden on the Examiner.

The Examiner has not contended that the groups would be in different subclasses or specified subclasses in which he believes the groups would be classified. Applicant believes the groups would all be classified identically. It would not be unreasonable for the Examiner to search a single subclass for all groups. Similarly, the Examiner has given no reasons why prior

art applicable to one group would not likely be applicable to another group or why the groups would raise different non-prior art issues. Indeed, Applicant believes there are no such reasons. Therefore restriction should not be required.

Reconsideration and allowance of the application are requested. Reconsideration and withdrawal of the restriction requirement are requested.

Respectfully,



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Date: July 21, 2008